

Frequently Asked Questions

The National Offshore Aquaculture Act of 2005

Offshore Aquaculture

Q. I understand that the Administration has developed a National Offshore Aquaculture Act. What do you mean by “offshore”?

“Offshore” refers to the federally managed area of the ocean off the coasts of the United States and its territories. This begins where state jurisdiction ends (for most states, that’s 3 nautical miles) and extends all the way out to the limit of the U.S. Exclusive Economic Zone (200 nautical miles in most places). The U.S. Exclusive Economic Zone covers an area equal to about 3.4 million square miles.

Q. What’s the difference between offshore and other types of aquaculture?

Aquaculture is a broad term that covers a lot of territory and techniques. The basic distinction is freshwater vs. marine aquaculture. Today, the commercial U.S. aquaculture industry is dominated by freshwater species such as catfish and trout. The primary marine species are shellfish – including oysters, clams, and mussels. Other marine species include finfish, ornamental fish, and algae (aquatic plants, seaweed). What distinguishes offshore aquaculture from other forms of marine aquaculture is the location in open ocean waters that are exposed to wind and waves, not sheltered in bays or coves closer to shore.

Q. Why focus on the offshore?

The offshore area of the ocean has great potential for sustainable aquaculture of all kinds. It is a desirable location for two main reasons. First, there are fewer competing uses further from shore. Second, the deeper water and stronger water flows make it a more desirable location for environmental reasons.

Environmental Impacts/Standards

Q. Has NOAA considered potential environmental issues associated with this type of operation -- such as impacts of escapes, excess feed, fecal deposition, etc.? What will NOAA [the government] do to ensure offshore aquaculture operations do not pollute the environment?

Yes, NOAA has considered these and other types of environmental impacts, and is satisfied that the bill provides the necessary authority to require, through regulations or permit conditions, appropriate measures to avoid, minimize, or mitigate unacceptable impacts. As added insurance, the bill also provides authority to take emergency actions to address unanticipated impacts in a timely manner. Many types of impacts can be avoided or minimized through good siting and the use of best management practices, commonly known as BMPs, in the aquaculture operation. In terms of environmental impacts, NOAA and others have already done a lot of work to answer many of the environmental questions related to marine aquaculture, and more work will need to be done. NOAA has strong stewardship responsibilities, so the agency will implement this law in a way that does not jeopardize the conservation of marine resources.

Q. I have read/heard in recent news reports on the offshore bill that NOAA is ignoring the need for environmental standards for offshore aquaculture. Is that true?

That is not true. Despite claims to the contrary from the media and others, the establishment of rigorous environmental standards for offshore fish farming is central to the National Offshore Aquaculture Act. First though, the Department of Commerce [NOAA] must get authority from

Congress to establish these standards. Once Congress allows the Department of Commerce to regulate offshore aquaculture, NOAA will undertake an exhaustive public process to establish environmental standards before the first permit is issued. This regulatory design process will allow the American public a unique opportunity to influence these standards and to shape our seafood farming industry. This issue – and the issue of oil and gas platforms – are the two most frequently misrepresented aspects of the bill.

Q. Does the aquaculture bill include an opportunity for state consultation?

Yes, the bill calls for coordination with states as part of the permit process and consultations with states in establishing environmental requirements. Furthermore, it does not supersede any other laws, such as the Coastal Zone Management Act, that include a role for states with respect to activities in Federal offshore waters. Aquaculture facilities also will require support facilities on land, the construction and operation of which will be subject to state and local approvals. The bill specifically includes a provision on the need to consult with State agencies as part of the coordinated and streamlined permit process for offshore aquaculture, so States will have a say in decisions on offshore aquaculture permits as well.

Oil/Gas Platforms

Q. Isn't this legislation an effort to make it easier for oil companies to find a way to delay the removal of decommissioned oil and gas platforms?

No. In fact the legislation does not provide for the use of oil and gas platforms beyond the expiration of an Outer Continental Shelf Lands Act lease. The potential use of decommissioned platforms has been in the news lately because of current efforts on the part of states and private research facilities to study the feasibility of using decommissioned platforms as part of an infrastructure for offshore aquaculture. However, the use of these platforms comes with a difficult set of liability issues, which this legislation is not designed to address. This issue – and the issue of environmental standards – are the two most frequently misrepresented aspects of the bill.

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Q. Why isn't offshore aquaculture already underway in the United States?

A major barrier to the development of offshore aquaculture in the United States is regulatory uncertainty. It's just not possible to make rational business decisions unless you know what the rules are. And although certain laws already apply to an offshore aquaculture operation, they were all written before offshore aquaculture technology existed. They don't address all of the issues that need to be addressed in any comprehensive way and there is no clear mechanism for the permitting of marine aquaculture in Federal waters. That's why the Administration asked NOAA to develop legislation that would authorize the Department of Commerce to establish an overall regulatory structure for offshore aquaculture in the United States.

Q. What exactly will the legislation do?

The National Offshore Aquaculture Act will safeguard the environment and balance multiple uses of the oceans and coasts by providing for the establishment of environmental requirements and siting criteria, the monitoring of environmental impacts, and the enforcement of regulations and permit conditions. The Act will give the Department of Commerce authority to issue two types of permits for offshore aquaculture. A site permit, similar to a lease, will authorize a permit holder to use a specified area of the ocean for, in most cases, a period of 10 years,

renewable every five years. The site permit holder will also need an operating permit that will allow the placement of a particular facility and the growing of particular species on the site.

Q. Why is this legislation moving forward now?

Momentum and demand. NOAA has been working with industry and other interested stakeholders on iterations of this legislation for 10 years. In 2004, the need for this legislation was highlighted in the report of the U.S. Commission on Ocean Policy and in the Administration's response to the recommendations of the Commission. President Bush, in the U.S. Ocean Action Plan, made a commitment to transmit to the 109th Congress legislation to establish a regulatory structure for offshore aquaculture. With this legislation, that commitment has been met.

Implementation of the Act

Q. How does the legislation address such issues as environmental concerns, or state involvement?

Issue-specific concerns about offshore aquaculture will be addressed in the regulatory design process once Congress enacts the proposed legislation. The regulatory design process will include a strong role for states, fishery management councils, industry, conservation organizations and other interested stakeholders and will focus on specific issues of concern to these groups and others.

Q. How will the regulatory design process work?

There are formal rulemaking procedures that all Federal agencies follow in order to implement legislation that is enacted by the Congress and signed into law by the President. NOAA will undertake this type of rulemaking for the *National Offshore Aquaculture Act of 2005* once it is signed into law. In general, the process involves public notices, solicitation of public input, public meetings. Announcements are published in the Federal Register. The overall process should take about 2 years, including the development and publication of draft rules, a review period, and publication of final rules. During this time period, we will also undertake a programmatic Environmental Impact Statement in fulfillment of our responsibilities under the National Environmental Policy Act (NEPA). Although rulemaking cannot formally begin until the legislation is enacted, NOAA plans to begin working right away with our stakeholders to outline the many details that need to be addressed in rulemaking.

Permitting

Q. Will NOAA be acting alone in terms of issuing permits?

While NOAA will issue the aquaculture permits, the agency will not be acting alone. The bill specifically requires a public process of consultations with States, Federal agencies, tribes, and the public in offshore aquaculture permit decisions. Also, other Federal agencies will continue to issue permits under other laws, such as the U.S. Army Corps of Engineers for structures and the U.S. Environmental Protection Agency for water effluents. NOAA will coordinate the permit review process among other agencies and facilitate input from stakeholders.

Q. Will the permitted operations be subject to any other environmental laws?

Yes, definitely. The bill does not pre-empt or supersede any existing laws. So the offshore aquaculture operation will remain subject to the Clean Water Act, the Endangered Species Act, the Marine Mammal Protection Act, and all other applicable laws and regulations.

Q. Will an offshore aquaculture company be allowed to take fish from the wild to be raised in captivity?

This bill does not allow offshore aquaculture permit holders to take fish from the wild. If an offshore aquaculture company wanted to do so, they would have to comply with existing fishery management laws and regulations governing the taking of fish from the wild.

Q. How will the farmed fish be distinguished from wild fish in the marketplace?

At the retail level, fish already need to be labeled as farmed or wild under another law, the Country of Origin Labeling Act (COOL). The offshore aquaculture bill provides authority to require cultured fish or other marine species to be marked, tracked, or otherwise identified, using proven technology, record keeping, and enforcement methods. The specific requirements will be determined as part of the rulemaking process.

Aquaculture in Context

Q. Why is aquaculture a significant issue for the United States?

The top three reasons are – the growing global demand for seafood, our seafood trade deficit and the need for a safe, reliable seafood supply in this country.

Q. How much of the seafood we eat is imported?

Currently, over 70% of the seafood that Americans consume is imported.

Q. How much of our imported seafood comes from aquaculture?

At least 40% of our seafood imports are aquaculture products.

Q. What is the likely future demand for seafood in the United States?

Assuming current per capita consumption of about 16 pounds per person per year and current projections for increases in population, the United States will need an additional 2 million metric tons per year by 2025. If we are to more than double our seafood consumption as Federal nutritionists recommend, the United States will need an additional 4 to 6 million metric tons per year over current levels.

Q. Why is the Administration enabling development of offshore aquaculture? Why can't we just let foreign countries develop aquaculture?

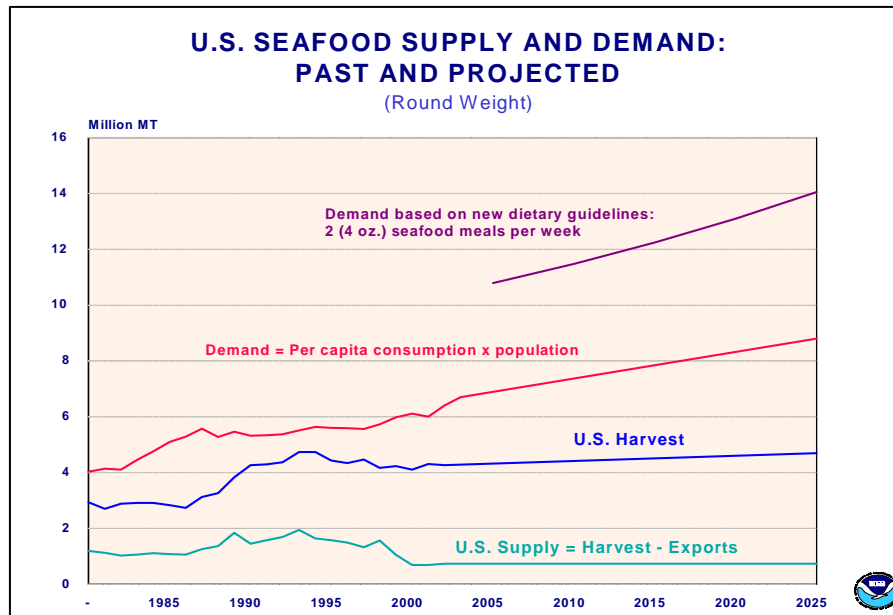
We need a vibrant commercial aquaculture industry right here in the United States, because aquaculture can be an effective option to reduce our dependence on seafood imports, provide jobs for economically depressed coastal communities, and increase regional food supply and security. The reality of today's global seafood market is that seafood demand exceeds the supply from wild fisheries, and we are already getting a lot of our seafood from aquaculture – much of it imported. In the future, the gap between seafood demand and wild fisheries production will widen, and will only be filled through even greater aquaculture production. The only real question is whether that aquaculture production will come from U.S. production, or from imports.

Q. Why should the United States care about the seafood trade deficit?

The annual seafood trade deficit, which currently exceeds \$8 billion, is a major contributor to the overall U.S. trade deficit. Besides the economic implications in terms of the overall balance of trade, there are food security implications related to our dependence on imported seafood.

Q. Why are the Department of Commerce and NOAA getting more involved in aquaculture?

Offshore aquaculture is something that the United States government cannot ignore. The Department of Commerce policy, which followed the NOAA policy, emphasizes the potential contribution of aquaculture to the economy. The NOAA policy focuses on specific actions to expand marine aquaculture in the United States through scientific, regulatory, outreach, and education initiatives. NOAA has the marine policy expertise, the stewardship successes, and the regulatory and research infrastructure to best facilitate and coordinate a regulatory program for offshore aquaculture in Federal waters.



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For more information on the bill, go to:

www.noaa.gov/aquaculture

For general information on marine aquaculture, go to:

www.aquaculture.noaa.gov